

FINAL REPORT

LEGISLATIVE COUNCIL INTERIM COMMITTEE

**HUMAN TRAFFICKING
2005**

Human Trafficking Interim Committee HCR 18 (2005)

Members

Senator Denton Darrington, Co-chair
Senator Dick Compton
Senator Edgar Malepeai

Representative Debbie Field, Co-chair
Representative Carlos Bilbao
Representative Donna Boe

Staff: Caralee Lambert and Charmi Arregui

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Charge

The Human Trafficking Interim Committee was a one-year committee formed in 2005 pursuant to the authority of HCR 18. The resolution authorized the committee to examine human trafficking in Idaho including, but not limited to, the following authorized activities:

1. Data collection and findings on the nature and extent of human trafficking in Idaho;
2. Identification of available federal, state and local programs that provide services to trafficking victims;
3. Analysis and recommendations regarding the ability of existing state criminal statutes to address trafficking; and
4. Recommendations regarding the prevention of trafficking, the prosecution of offenses, and victim assistance.

The resolution required that the committee report its findings and recommendations, including remedies for any deficiencies found by the committee, to the Legislature, the Office of the Governor and the Idaho Supreme Court by January 1, 2006.

The members of the committee were: Senator Denton Darrington (Co-chair), Representative Debbie Field (Co-chair), Senator Dick Compton, Senator Edgar Malepeai, Representative Carlos Bilbao, and Representative Donna Boe.

Meetings

The committee held a total of two meetings from the date of its formation to its expiration in December 2005. All of the meetings were held at the Idaho State Capitol in Boise. Following is a list of the meeting dates:

July 27, 2005
December 15, 2005

Scope of Study

The committee reviewed potential human trafficking issues in the state as well as current Idaho statutes and resources that may be available to address the crime of human trafficking and its victims.

Speakers

The committee took testimony from a wide range of individuals and groups. Following is a list of individuals who testified during one or both of the two interim committee meetings:

Yolanda Matos, Valley Crisis Center
Michael Kane, Idaho Sheriffs' Association
Colonel Dan Charboneau, Director, Idaho State Police
Kevin Maloney, United States Attorney's Office
William Von Tagen, Idaho Attorney General's Office
Merikay Jost, Idaho Council of Catholic Women
Charlotte Mallet, American Association of University Women

Recommendations

The Human Trafficking Interim Committee voted to **support** legislation, identified as draft CAL354, for the 2006 session. The legislation would set forth legislative intent, define "human trafficking," increase the punishment for certain crimes if the crime of human trafficking is involved, provide for restitution and rehabilitation costs for victims, and require reports regarding human trafficking victim resources in Idaho.

CAL354

AN ACT

****MAIN TITLE HERE****

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 85, Title 18, Idaho Code, and to read as follows:

CHAPTER 85

HUMAN TRAFFICKING

18-8501. Legislative intent. It is the intent of the legislature to address the growing problem of human trafficking and to provide criminal sanctions for persons who engage in human trafficking in this state. In addition to the other provisions enumerated in this chapter, the

legislature finds that it may also be appropriate for members of the law enforcement community to receive training from the respective training entities in order to increase awareness of possible human trafficking cases occurring in Idaho and to assist and direct victims of such trafficking to available community resources.

18-8502. Human trafficking defined. "Human trafficking" means:

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age; or
- (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

18-8503. Punishment. Notwithstanding any other law to the contrary, on and after July 1, 2006, any person who commits a crime provided for in the following sections, and who, in the commission of such crime or crimes, also commits the crime of human trafficking, as defined in section 18-8502, Idaho Code, shall be punished by imprisonment in the state prison for not more than twenty-five (25) years unless a more severe penalty is otherwise prescribed by law: 18-905 (aggravated assault), 18-907 (aggravated battery), 18-909 (assault with intent to commit a serious felony), 18-911 (battery with intent to commit a serious felony), 18-913 (felonious administering of drugs), 18-1501(1) (felony injury to child), 18-1505(1) (felony injury to vulnerable adult), 18-1505(3) (felony exploitation of vulnerable adult), 18-1505B (sexual abuse and exploitation of vulnerable adult), 18-1506 (sexual abuse of a child under the age of sixteen years), 18-1506A (ritualized abuse of child), 18-1507 (sexual exploitation of child), 18-1508A (sexual battery of minor child sixteen or seventeen years of age), 18-1509A (enticing of children over the internet), 18-1511 (sale or barter of child), 18-2407(1) (grand theft), 18-5601 through 18-5614 (prostitution), or 18-7804 (racketeering).

18-8504. Restitution — Rehabilitation. (1) In addition to any other amount of loss resulting from a human trafficking violation, the court shall order restitution, as applicable, including the greater of:

- (a) The gross income or value to the defendant of the victim's labor or services; or
- (b) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the federal fair labor standards act.

(2) In addition to any order for restitution as provided in this section, the court shall order the defendant to pay an amount determined by the court to be necessary for the mental and physical rehabilitation of the victim or victims.

18-8505. Human trafficking victim protection. (1) The attorney general, in consultation with the department of health and welfare and the United States attorney's office, shall, no later than July 1, 2007, issue a report outlining how existing victim and witness laws respond to the needs of human trafficking victims, and suggesting areas of improvement and modification.

(2) The department of health and welfare, in consultation with the attorney general, shall, no later than July 1, 2007, issue a report outlining how existing social service programs respond or fail to respond to the needs of human trafficking victims, and the interplay of such

existing programs with federally-funded victim service programs, and suggesting areas of improvement or modification. Such inquiry shall include, but not be limited to, the ability of state programs and licensing bodies to recognize federal T non-immigrant status for the purposes of benefits, programs and licenses.